IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1672 of 2001 (M/B)
(Old No. 12218/93)

Deepak Kumar Arora,
S/o Sri O.P. Arora,
R/o Railway Road, Pargana Jwalapur,
District Haridwar. ..... Petitioner

Versus

1. State of U.P.
through Collector, Haridwar.
2. Special Land Acquisition Officer,
Sanyukt Sansthan, Saharanpur.
3. Haridwar Development Authority,
Haridwar,
Through its Secretary.
4. Vice Chairman,
Haridwar Development Authority,
Haridwar. ..... Respondents

Mr. Alok Singh, Senior Counsel with Mr. Davesh Bishnoi, Advocate for the petitioner.
Mr. Subhash Uapdhyaya, Standing Counsel for respondents Nos. 1 and 2.
Mr. S. Dhulia, Senior Counsel with Mr. Siddartha Sah, Advocate for respondents Nos. 3 and 4.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. Alok Singh, Senior Counsel with Mr. Davesh Bishnoi, Advocate for the petitioner.

Mr. Subhash Upadhyaya, Standing Counsel for respondents Nos. 1 and 2.

Mr. S. Dhulia, Senior Counsel with Mr. Siddhartha Sah, Advocate for respondents Nos. 3 and 4.

They are heard.

2. Petitioner Deepak Kumar Arora filed this writ petition in the year 1993 before the High Court of Allahabad for the following reliefs:

"(i) Issue a writ of certiorari quashing the notification dated 6th April 1992, 7th of Dec. 1991 and 3rd of Sept. 1991 as contained in Annexures 4, 5 & 6 to the writ petition issued by the respondent no. 1 and 3 respectively so far as the residential house of the petitioner situated in part of Khasra no. 566 of village Jwalapur, Pargana Jwalapur, Tahsil and District Haridwar.

(ii) Issue a writ of Mandamus commanding the respondents not to interfere in the petitioner's possession over khasra no. 566 13 Biswa 6 2/3 Biswansi and not to demolish the petitioner's residential house situated in part of khasra no. 566 of village Jwalapur Pargana Jwalapur, Tahsil and District Mathura.

(iii) Issue any other order or direction which this Hon'ble Court may deem fit and proper under the particulars facts and circumstances of the case.

(iv) Award the costs of the writ petition to the petitioner.

3. The petitioner is seeking exemption from acquisition of his land bearing Khasra No. 566 situated in Village Jwalapur, Pargana Jwalapur, District Haridwar measuring 13 biswas 6 & 2/3 biswansi on the ground that the lands of other similarly situated persons were exempted from acquisition by the authorities on the ground that there were some constructions on those lands.

4. During the pendency of the writ petition, following interim order was passed on 15.03.2004:

"Heard Mr. Alok Singh, learned counsel for the petitioner and Mr. S. Dhulia, learned counsel for Haridwar Development Authority.

This writ petition was filed in Allahabad High Court and an interim order was granted. In view of the interim order, the possession of the land acquired by the impugned Notification issued under the Land Acquisition Act, has not been taken over.

Learned counsel for the petitioner has submitted that similarly situated persons, who were in possession of the land acquired and having their houses thereon, have been exempted by way of a compromise. The petitioner also falls in the same category and therefore, the

> respondents be directed to consider the case of the petitioner to grant the exemption.
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> Considering the facts and circumstances of the case, we provide that in case, any person who had his house, has been exempted from the Notification impugned and the petitioner's case falls under the same category, the case of the petitioner shall also be considered for exemption within a period of three weeks. List after three weeks."

5. In compliance of the above interim order, the petitioner's case was reconsidered by the Haridwar Development Authority vide its order dated 23/25.08.2004 filed as Annexure No. 9 with the application for amendment in the writ petition.

6. On a perusal of the above order dated 23/25.08.2004, we gather that the petitioner was not found entitled to exemption from acquisition, on the ground that in his application dated 17.04.1993 it was mentioned that a sawmill only is situated on his land.

7. A copy of the said application dated 17.04.1993 has been filed as Annexure No. 10 with the application for amendment in the writ petition. In para 2 of the said application, it has been categorically stated that the petitioner is carrying on his timber business on the said land and is also residing there.

8. Thus, it is apparent that the order dated 23/25.08.2004 has been passed by the Haridwar Development Authority on a misreading of the petitioner's application dated 17.04.1993.

9. In this view of the matter, we are of the opinion that the petitioner's case for exemption from acquisition deserves to be reconsidered by the Haridwar Development Authority in accordance with the policy decision of the Government and the law on the subject.

10. We, therefore, direct respondents Nos. 3 and 4 to reconsider the petitioner's case for exemption from acquisition in accordance with the policy decision of the Government and the law on the subject and to pass a speaking order within a period of two months from the production of a certified copy of this order. It goes without saying that before passing any order in the matter, reasonable opportunity of haring shall be afforded to the petitioner.

11. The interim order dated 08.04.1993 shall continue to remain in force for a further period of three months from today or till the date of passing of the order by the Haridwar Development Authority after reconsideration of the petitioner's case, whichever is earlier.

12. With the above direction, the writ petition stands disposed of.

13. In view of the above order, no further order on CLMA No. 5048 of 2004 in necessary and the same stands disposed of.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C. J.)**
22.06.2006 22.06.2006

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